IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE NINTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 1386 of 2003

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 03/01/2003 in WP NO : 18216 OF 2000 on the file of the High Court.)

Between:

1 State of Andhra Pradesh rep.by its Secretary.,Education Department., Secretariat., Saifabad., Hyderabad.
2 The Commissioner and Director of Intermediate Education., A.P., Hyderabad.

..... APPELLANTS

AND

1 A.Jayalakshmi
A.G.S.Junior College., Shanti Nagar., Tirupathi.
2 A.G.S.Junior College., Shanti Nagar, Tirupathi, rep.by its Secretary and Correspondent.

.....RESPONDENTS

Counsel for the Appellants: GP FOR HIGHER EDUCATION

Counsel for the Respondent No.1: MR.VENKATESWARA RAO GUDAPATI

Counsel for the Respondent No. 2 : Mr V. VENKATA RAO

The Court made the following :

JUDGMENT (per Hon'ble Smt Justice T. Meena Kumari):

Challenging the orders passed by the learned Single Judge of this Court in WP No. 18216 of 2000 dated 3-1-2003 with regard to the directions issued for absorption of the petitioner against the post of Junior Lecturer in Civics which is admitted to grant in aid with effect from 1.11.1998, the State- respondents filed the present appeal.

The first respondent herein is the writ petitioner. She filed the writ petition seeking a direction to declare the action of the respondents in not absorbing her in the aided post of Junior Lecturer in Civics in the 3rd respondent-College as was done in the case of similarly placed person as arbitrary; and direct the respondents to absorb her in the said post with effect from 1.11.1998 with all consequential attendant benefits. The learned single Judge observed that under G.O.Ms.No:127, dated 28.3.1991 and G.O.Ms.No:232, dated 24.6.1991, the defects in the selection process as regards several lecturers were condoned and the respondents have no basis in denying the benefit of the petitioner and consequently, allowed the claim of the petitioner. Aggrieved by the same, the present writ appeal is preferred by the State.

Heard the learned counsel on either side.

The learned Government Pleader for Higher Education appearing on behalf of the appellants submitted that in view of the fact that the appointment of the petitioner is not made in accordance with the due procedure and therefore, her services could not be admitted into aid. Hence, the direction of the learned single judge to admit the petitioner in aided post with effect from 1.11.1998 i.e., from the date when the college was admitted to aid, is not in conformity with the Government orders issued from time to time.

We have perused the material available on record and the order of the

learned single Judge.

According to the 3rd respondent-management, they have sent the proposals of the petitioner to the Secretary, Board of Intermediate Education for approval of the same on 20-1-1988. Whereas, as could be seen from the counter filed by the Government, it was for first time pointed out that proper application was not made by the applicant to the appropriate & competent authority i.e., Board of intermediate Education, and hence her appointment was not approved by it as per G O Ms. No.29 dt 5-2-1987. But, peculiarly, there is no such material placed before this Court evidencing that any such rejection of the proposal of the petitioner, has been convened to the 3rd respondent-Management.

The undisputed facts are that the 3rd respondent-college was included in the grant in aid during the year 1999 as per the orders of the Government issued in G.O.Ms.No:229, dated 4.8.1999. Admittedly, the proposal of the petitioner for absorption to the aided post was forwarded to the authorities during the year 1988. But, it is unfortunate that it has not seen the light of the day. Now, it is the contention of the respondents that the application has not been sent by the petitioner at the appropriate age and that too, the application has not been sent to a proper authority. Having allowed the petitioner to work in the institution even after admitted into grant in aid as per the Government order referred to above and having considered the cases of similarly situated persons and having failed to consider the proposals of the petitioner sent during the year 1988, till to date, the respondents cannot deprive the benefits of the petitioner on one pretext or other at this stage of the proceedings. As rightly observed by the learned single Judge, the Government has issued G.O.Ms.No:127 curing the defects in respect of several lecturers with effect from the date anterior to the Government orders. If that being the case, no explanation is forthcoming as to why the defect as pointed out by the respondents in respect of the petitioner, could not be cured on par with other lecturers. The learned single Judge is justified in holding that there is no basis for the respondents in denying the benefit of absorption of the petitioner.

In the facts and circumstances of the case and also considering the long service and as well as the age of the petitioner, we feel that there is no illegality or irregularity in the order of the learned single Judge and therefore, there are no merits in the appeal.

Accordingly the writ appeal is dismissed confirming the order of the learned single Judge. However, we make it clear that the time granted by the learned single Judge for compliance of the order, is hereby extended till 31-3-2005.

(T. MEENA KUMARI, J)

Dt. 9.02.2005

(S. ANANDA REDDY, J)

Kvrk

Copies to;

1. The Secretary, State of Andhra Pradesh, Education Department., Secretariat., Saifabad., Hyderabad.
2 The Commissioner and Director of Intermediate Education., A.P., Hyderabad.

3. Two CCs to GP for Higher Education, High Court Buildings, Hyderabad(OUT).

4. Two CD copies.

5. The Secretary and Correspondent, A,G.S. Junior College,

Shanti Nagar, Tirupathi, Chittoor District.